

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.34693 of 2024
Reserved on: 13.08.2024
Pronounced on: 30.08.2024

Davinder Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Gaurav Goyal, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
17	08.12.2023	Economic Offences Wing, Vigilance Bureau, District Ludhiana	409, 420, 465, 466, 467, 468, 471, 120-B IPC and 7, 7-A, 8. 13(1)(A) read with 13(2) of PC Act, 1988

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. In paragraph 14 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

"2. That the present case (FIR No. 17 Dated 08.12.2023 under sections 420, 465, 466, 468, 471, 120-B IPC, later on added sections 409, 467 IPC and sections 7, 7-A, 8, 13(1)A Read With 13(2) of the P.C. Act 1988, Police Station Vigilance Bureau, E.O.Wing, Ludhiana. Annexure P-1) has been registered against PKS Sharma Bhardwaj Ex-Registrar Punjab Pharmacy Council, Dr. Tejbir Singh Ex-Registrar Punjab Pharmacy Council and Ashok Kumar Accountant now Superintendent Punjab Pharmacy Council Medical Education Bhawan Sec.69, SAS Nagar as per the vigilance inquiry no. 04 dated 26.08.2019 conducted by Vigilance Bureau, EOW S.A.S Nagar on the basis of complaint made by Swaranjit Singh, Convener Para Medical and Health Employees Front, Punjab. During enquiry, it has transpired that if any student wants to take admission in



another Education Board, then he/she is required to submit his migration certificate issued by his previous Education Board. It is the duty of the Registrar, Punjab State Pharmacy Council to verify certificates of the students taking admission in courses of Diploma in Pharmacy, B-Pharma, M-Pharma and to register them for different works. If any student wants to do Pharmacist course, then he has to pass 10+2 class in medical or non-medical stream. There are 105 Pharmacy Colleges functioning in the State of Punjab. At the time of counseling, all the seats in government colleges used to be filled whereas the seats in private colleges remained vacant and as per the directions of the government, the private colleges used to fill these seats at their own level. In order to fill these seats, private colleges used to get 10+2 medical/non-medical stream certificates of students from the outer states without any examination despite the fact that these courses are regular courses, which have to be passed by attending regular classes. Thereafter, the Registrar of Punjab Pharmacy Council and other officials issued registration numbers to the students without verifying their 10+2 certificates and in lieu there of, they obtained huge amounts as illegal gratification.

3. That On the basis of the said registration numbers, students had obtained jobs in different institutions and also run their medical shops. During his tenure as Registrar, Punjab Pharmacy Council, Parveen Kumar Bhardwaj committed various irregularities and hence, his services were terminated, but he was again appointed as Registrar on 24.12.2013. The record of 453 Pharmacists has been verified from Medical College Amritsar, Medical College Faridkot and Medical College Patiala. There are irregularities in the reports submitted by Medical College Amritsar and Medical College Faridkot. Not only this, the certificates of 143 students were found to be fake, but no appropriate action was taken against these students. Dr. Abhininder Singh Thind (now died), Dr. Tejbir Singh and Parveen Kumar Bhardwaj have violated the rules of Punjab State Pharmacy Council during their respective tenures as they, in connivance with Pharmacy Colleges, did not verify the 10+2 certificates of the students which were issued by unapproved boards. The Pharmacists who obtained licenses on the basis of forged certificates are playing with the health of general public.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“Role of petitioner and Evidence against him:-

4. That it is submitted that before registration of FIR, 17/2023 (Supra), vigilance inquiry no. 4 dated 26.08.2019 Mohali was conducted and during inquiry statement of 10 students namely (1) Paramjit Singh S/o Gurjant Singh R/o Chugga Khurad, Post Office Behman Diwana, Distt. Bathinda (2) Rajesh kumar S/o sh. Anand kumar R/o V.P.O. Mehatpur, Nakodar, Distt. Jalandhar (3) Ashok kumar S/o Sh. Bidhi Chand R/o H.No. 89,16 Acare Colony, Distt. Barnala, (4)



Amandeep Singh S/o sh. Gurjant Singh R/o Village Ballo, Tehsil Mourr, Distt. Bathinda (5) Rajesh kumar S/o Sh. Om Parkash R/o Old Radha swami, ward no. 11 Rampura Phool, Distt. Bathinda (6) Om Parkash S/o Sh. Mahinder Pal R/o Village Himatpura, Tehsil Nihal Singh Wala, Distt. Moga. (7) Deepak Goyal S/o Chaman Lal Goyal R/o Budh Marg Budlada now H.no.164 Global Space Sirsa Haryana (8) Vishal Kumar S/o Sh Bhushan Kumar R/o Ward No. 38 Street No. 13. Main Raod, Lat Singh Nagar Distt. Bathinda (9) Sm Mani Dyo Bhushan kumar w/o Sh. Arun Aggarwal R/o Basant vihar. Near Godia Nath, Street No. 03, Distt. Bathinda (10) Smt. Anju Rani D/o Ram chand w/o Prince pal to Laxmi bal marg, cheurt galli, Distt. Budhlada studied at G.H.G. College of Pharmacy of Raikot Ludhiana were joined and they stated that the Owners/Administrators of G.H.G. College of Pharmacy, Raikot, Ludhiana had got arranged certificates of 10+2 in science stream from Board of Higher Secondary Education, New Delhi and they had not attended regular classes of 10+2 in science stream and in lieu thereof, Owners/Administrators of G.H.G. College of Pharmacy, Raikot, Ludhiana, had obtained illegal gratification from them in the form of money (Rs70,000 to 1,50,000) from each of them.

5. That during the course of inquiry, it also came on record that the Board of Higher Secondary Education, New Delhi which had issued the certificates to above said students at the behest of G.H.G. College of Petitioner, does not exist in the list of member-Council of Boards of School Education In India (COBSE). That on the basis of said forged and fabricated 10+2 certificates in Science stream of said 10 students, the petitioner's college had provided admission to them in D-Pharmacy Course and on the basis of the same. The Punjab State Board of Technical Education & Industrial Training, Chandigarh had issued Diploma certificates to them and thereafter registration certificates from Punjab State Pharmacy Council were issued to them.

6. That the petitioner was well aware about the fact that the said students are not eligible for doing D-Pharmacy course, but still he allowed them to do the course and he got arranged 10+2 certificates in science stream from non-existing Education Board of Delhi as well as registration certificates from Punjab State Pharmacy Council on the basis of forged and fabricated 10+2 certificates and Diploma certificates. The Present Petitioner Davinder Kumar @ Meenu has been nominated as an accused in this case on 15.01.2024 as he was administrator of G.H.G. College of Pharmacy Raikot Ludhiana at that time. The Petitioner remained working as administrator of said college from the year 2005 to December 2023 and in this regard statement of Sh. Naveen Aggarwal presently working as Administrator of G.H.G. College Raikot Ludhiana has been recorded u/s 161 Crpc now 180 BNSS."

7. There is sufficient prima facie evidence connecting the petitioner with the alleged offense; still, it is neither a case for custodial interrogation nor pre-trial incarceration.

8. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

9. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there

would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner’s complying with the following terms.

13. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

14. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

15. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
16. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.
17. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Sonia Puri

Whether speaking/reasoned:	Yes
Whether reportable:	No.